

1 99-0031-PHR

2 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

3 In the Matter of:

4 JAMES C. OWENS)
5 Certificate of Registration)
6 Number 10864)

NOTICE OF HEARING

NO. 99-0031-PHR

7 DIRECTED TO: JAMES C. OWENS
8 3720 W. Eastham Lane
9 Tucson, AZ 85741

10 This Notice of Hearing is prepared pursuant to the requirements established by A.R.S. § 32-1928
11 and A.A.C. § R4-23-104.

12 **JURISDICTION**

13 **I**

14 For the reasons stated herein below, and pursuant to A.R.S. § 32-1928, the Board of Pharmacy
15 will conduct a hearing at 09:00 AM the 13th day of January, 2000 at the Midwestern University College
16 of Pharmacy, 19555 North 59th Avenue, Glendale, Arizona. The hearing will be conducted to determine
17 whether or not Certificate of Registration No. 10864 should be revoked, suspended, or placed on
18 probation, censured or fined.

19 **PARTIES**

20 **II**

21 The Arizona State Board of Pharmacy is that body created and empowered pursuant to A.R.S.
22 § 32-1904 to administer the laws of the State of Arizona relating to the practice of pharmacy.

23 **III**

24 JAMES C. OWENS is the holder of Certificate of Registration Number 10864 which allows him
25 to engage in the practice of pharmacy in the State of Arizona and was so engaged as a pharmacist in
26 between the dates of October 16th, 1998 and July 29th, 1999 at Albertson's Pharmacy #0988, located
at 5085 N. La Canada, Tucson, Arizona.

. . . .

FACTUAL ALLEGATIONS

IV

1. On or about January 23, 1999 JAMES C. OWENS did dispense from Albertson's pharmacy #0998 approximately 60 dosage units of hydrocodone with acetaminophen 10mg./500mg. tablets in the name of Janice Betker, alleged prescriber Allen Sloan, pursuant to a document numbered 3004084, a Class III Controlled Substance as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308.13 without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21. Dr. Sloan has signed a statement that Janice Betker was not his patient and that he never prescribed any drugs for her.

2. On or about March 18, 1999 JAMES C. OWENS did dispense from Albertson's pharmacy #0998 approximately 60 dosage units of hydrocodone with acetaminophen 10mg./500mg. tablets in the name of Janice Betker, alleged prescriber Allen Sloan, pursuant to a document numbered 3004084, a Class III Controlled Substance as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308.13 without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21. Dr. Sloan has signed a statement that Janice Betker was not his patient and that he never prescribed any drugs for her.

3. On or about April 11, 1999 JAMES C. OWENS did dispense from Albertson's pharmacy #0998 approximately 60 dosage units of hydrocodone with acetaminophen 10mg./500mg. tablets in the name of Janice Betker, alleged prescriber Allen Sloan, pursuant to a document numbered 3004084, a Class III Controlled Substance as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308.13 without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21. Dr. Sloan has signed a statement that Janice Betker was not his patient and that he never prescribed any drugs for her.

4. On or about May 6, 1999 JAMES C. OWENS did dispense from Albertson's pharmacy #0998 approximately 60 dosage units of hydrocodone with acetaminophen 10mg./500mg. tablets in the name of Janice Betker, alleged prescriber Allen Sloan, pursuant to a document numbered 3004084, a Class III

1 Controlled Substance as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308.13 without a valid prescription
2 as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21. Dr.
3 Sloan has signed a statement that Janice Betker was not his patient and that he never prescribed any drugs
4 for her.

5 5. On or about June 12, 1999 JAMES C. OWENS did dispense from Albertson's pharmacy #0998
6 approximately 60 dosage units of phentermine 37.5mg. tablets in the name of Janice Betker, alleged
7 prescriber Allan Crosby, on a document numbered 4007889, a Class IV Controlled Substance as defined
8 in A.R.S. § 36-2515 and 21 C.F.R. § 1308.14 without a valid prescription as defined in A.R.S. § 32-
9 1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21. Dr. Crosby has signed a statement
10 that Janice Betker was not his patient and that he never prescribed any drugs for her.

11 6. On or about June 28, 1999 JAMES C. OWENS did dispense from Albertson's pharmacy #0998
12 approximately 90 dosage units of diazepam 5 mg. tablets in the name of Janice Betker, alleged prescriber
13 Arnold Hollander, on a document numbered 4008295, a Class IV Controlled Substance as defined in
14 A.R.S. § 36-2515 and C.F.R. § 1308.14 without a valid prescription as defined in A.R.S. § 32-1901.66,
15 in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21. Dr. Hollander has signed a statement that
16 Janice Betker was not his patient and that he never prescribed any drugs for her.

17 7. On or about July 10, 1999 JAMES C. OWENS did dispense from Albertson's pharmacy #0998
18 approximately 100 dosage units of hydrocodone with acetaminophen 7.5mg./500mg. tablets in the name
19 of Janice Betker, alleged prescriber German Lasala, on a document numbered 3008605, a Class III
20 Controlled Substance as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308.13 without a valid prescription
21 as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21. Dr.
22 Lasala has signed a statement that Janice Betker was not his patient and that he never prescribed any drugs
23 for her.

24 8. On or about July 25, 1999 JAMES C. OWENS did dispense from Albertson's pharmacy #0998
25 approximately 50 dosage units of tablets of hydrocodone with acetaminophen 10mg./500mg tablets in
26 the name of Janice Betker, alleged prescriber German Lasala, on a document numbered 3009047, a Class

1 III Controlled Substance as defined in A.R.S. § 36-2514 and C.F.R. § 1308.13 without a valid prescription
2 as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21. Dr.
3 Lasala has signed a statement that Janice Betker was not his patient and that he never prescribed any drugs
4 for her.

5 9. On or about the 19th day of August, 1999, JAMES C. OWENS failed to notify the Board Office
6 of a change in employment as a pharmacist as required by A.R.S. § 32-1926(A) to wit:

7 Notice of change of place of practice or termination of responsibility; proof of continuing
8 residency status: Except as prescribed in subsection B, a pharmacist or pharmacy intern shall
9 within ten days after changing his place of practice or residency give written notice to the
10 executive director of such change and the location of his new practice, if any.

11 CAUSE OF ACTION

12 V

13 A.R.S. § 32-1927(A) provides that the license of any pharmacist or pharmacy intern may be
14 revoked or suspended or a pharmacist or pharmacy intern may be placed on probation by the board when:

15 10. The licensee is found by the board to be guilty of violating any Arizona or federal law, rule
16 or regulation relating to the manufacture and distribution of drugs, devices or the practice
17 of pharmacy.

18 Further A.R.S. § 32-1927(B) provides that the license of any pharmacist or pharmacy intern may
19 be revoked or suspended or the pharmacist or pharmacy intern may be placed on probation or censured
20 and a civil penalty of not more than five hundred dollars (\$500.00) for each offense may be imposed by
21 the board when:

22 2. The licensee is found by the board, or is convicted in a federal or state court, of having
23 violated federal or state laws or administrative rules pertaining to marijuana, prescription-
24 only drugs, narcotics, dangerous drugs or controlled substances.

25 JAMES C. OWENS is directed to mail to the Board no later than the 23rd day of December, 1999,
26 a written response to the charges described above, specifically his defenses, assertions, or comments
concerning such allegations.

JAMES C. OWENS is hereby notified that failure to file a timely response and denial of the
allegations made herein may result in the allegations being deemed admitted by him, pursuant to Board

1 administrative rule A.A.C. § R4-23-104(I).

2 JAMES C. OWENS is hereby notified that he may appear with or without the assistance of an
3 attorney, on the date and at the time specified and present testimony and argument in support of his
4 defense with respect to the assertions contained in this Notice of Hearing. If the respondent fails to
5 appear, the Board may proceed and determine the Matter in his absence.

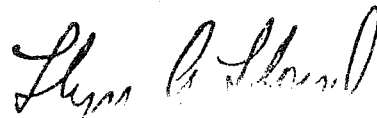
6 JAMES C. OWENS is further notified that no continuance will be granted unless a request for
7 continuance is submitted to the Board in writing, detailing the reasons for the requested continuance, and
8 that request is granted by the Board. Except in the event of an emergency, a request for continuance shall
9 be submitted to the Board no later than seven (7) days prior to the date of hearing.

10
11 DATED this 2nd day of December, 1999

12
13 ARIZONA STATE BOARD OF PHARMACY

14
15 SEAL

16 By



17 Llyn A. Lloyd
18 Executive Director
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Copies of the Foregoing Notice
of Hearing mailed via Certified U.S. Mail this
2nd day of December, 1999 to:

JAMES C. OWENS
3720 W. Eastham Lane
Tucson, AZ 85741

And by courier mail to:

Nancy Beck
Assistant Attorney General
Civil Division
Attorney General's Office
1275 W. Washington
Phoenix, AZ 85007
Attorney for the State

and

Thomas Dennis
Assistant Attorney General
Civil Appeals Section
1275 W. Washington
Phoenix, AZ 85007

99-0031-HO

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of:

JAMES C. OWENS
Certificate of Registration
Number 10864

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND BOARD ORDER
NO. 99-0031-PHR**

DIRECTED TO: JAMES C. OWENS
3720 W. Eastham Lane
Tucson, AZ 85741

Pursuant to the foregoing Consent to Entry of Order, the evidence and records compiled and contained in the file for JAMES C. OWENS and for good cause appearing, the Board on this 19th day of January, 2000 enters the following Findings of Fact, Conclusions of Law and Board Order in the Matter of Notice of Hearing Number 99-0031-PHR ("Notice").

FINDINGS OF FACT

I

1. JAMES C. OWENS is the holder of Certificate of Registration Number 10864 issued by the Arizona State Board of Pharmacy which permits the holder to practice pharmacy in the State of Arizona.

2. The evidence and testimony presented in this matter sustained the factual allegations in Paragraphs one (1) through nine (9) in section IV of the Notice. The Board finds that:

JAMES C. OWENS has violated A.R.S. § 32-1927(A)(10), A.R.S. § 32-1927(B)(2), A.R.S. § 36-2525(D), and 21 C.F.R. § 1306.21 to wit: the dispensing of Class III and IV Controlled Substances as listed in the Notice of Hearing 99-0031-PHR without valid prescriptions and that JAMES C. OWENS failed to notify the Board Office of a change in employment as a pharmacist as required by A.R.S. § 32-1926(A).

CONCLUSIONS OF LAW

II

1. The Board concludes that it has jurisdiction in this Matter pursuant to A.R.S. § 32-1927

1 (A)(10) and 32-1927(B)(2).

2 2. The Board concludes that JAMES C. OWENS violated A.R.S. § 36-2525(D), 21 C.F.R. §
3 1306.21 and A.R.S. § 32-1926(A). to wit:

4 dispensing of Class III& IV Controlled Substances as listed in Notice of Hearing 99-0031-PHR
5 without valid prescriptions and failing to notify the Board office of a change in his place of
6 employment as a pharmacist.

7 3. The Board further concludes that JAMES C. OWENS is in violation of A.R.S. § 32-
8 1927(A)(10) and 32-1927(B)(2).

9 ORDER

10 III

11 The Certificate of Registration Number 10864 issued to JAMES C. OWENS is hereby suspended
12 for one year, said suspension is stayed after ninety (90) days and following the suspension, the certificate
13 shall be placed on probation for five (5) years. JAMES C. OWENS shall pay a civil penalty of five
14 hundred (\$500.00) for each violation, a total of four thousand five hundred and fifty hundred dollars
15 (\$4,500.00) to the Board of Pharmacy within twelve (12) months of the date of this Order. The probation
16 is subject to the following terms and conditions:

17 1. JAMES C. OWENS shall not serve as a preceptor pharmacist nor as a pharmacist in charge
18 throughout the term of suspension and probation. JAMES C. OWENS shall not accept employment in any
19 capacity in an Arizona pharmacy during the term of suspension.

20 2. JAMES C. OWENS shall take the MPJE (law exam) and pass with a score of 80 or better
21 before the term of suspension is completed.

22 3. JAMES C. OWENS shall furnish the Arizona State Board of Pharmacy with a list of all
23 jurisdictions in which he maintains or has maintained licensure in the profession of pharmacy along with the
24 registration number of said licenses.

25 4. JAMES C. OWENS is required to advise the Arizona State Board of Pharmacy immediately of
26 any change in pharmacy employment status throughout the term of probation.

5. JAMES C. OWENS is required to furnish all pharmacy employers with a copy of this Board Order

1 throughout the term of probation.

2 6. JAMES C. OWENS shall pay all fees and complete all Continuing Education requirements to
3 maintain certificate of registration number 10864 throughout the term of probation.

4 7. JAMES C. OWENS shall obey all federal and state laws and rules governing the practice of
5 pharmacy.

6 8. JAMES C. OWENS shall bear the responsibility for the release of information forms and
7 reports required by this Order.

8 9. JAMES C. OWENS shall "hold harmless" the provider of any required reports to
9 the Board of Pharmacy.

10 10. JAMES C. OWENS shall appear before the Arizona State Board of Pharmacy on
11 or after January 13th, 2005, to request that the probation imposed by this Order be terminated.

12 11. If JAMES C. OWENS violates this Order in any way or fails to fulfill the requirements of this
13 Order, the Board, after giving JAMES C. OWENS notice and the opportunity to be heard, may revoke,
14 suspend or take other disciplinary action against JAMES C. OWENS.

15 JAMES C. OWENS has the right to request a rehearing or review of this decision. A request for
16 a rehearing or review of this decision shall be in writing and satisfy the prerequisites of A.A.C. R4-23-
17 109(D). In order to be eligible for judicial review pursuant to Title 12, Chapter 7, Article 6, JAMES C.
18 OWENS is required to exhaust his administrative remedies by filing a motion for rehearing or review
19 within thirty days after service of these Findings of Fact, Conclusions of Law and Order of Probation.
20 Pursuant to A.R.S. § 41-1092.09(B), JAMES C. OWENS is notified that failure to file a motion for
21 rehearing or review within thirty days after service of these Findings of Fact, Conclusions of Law and
22 Order of Probation has the effect of prohibiting him from seeking judicial review of the Board's decision.
23 Service is complete on personal service or five days after the date these Findings of Fact, Conclusions of
24 Law and Order of Probation are mailed to his last known address.

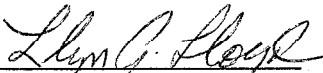
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26 . . .

1 DATED this 19th day of January, 2000

4 ARIZONA STATE BOARD OF PHARMACY

6 SEAL

By


Llyn A. Lloyd
Executive Director

10 Copies of the foregoing Finding of Fact,
11 Conclusions of Law and Board Order
12 sent via Certified US mail this
1st day of February 2000, to:

13 JAMES C. OWENS
14 3720 W. Eastham Lane
Tucson, AZ 85741

15 and Bradley E. Thrush
16 Attorney for Respondent
C/O Law Offices of Bradley Thrush
17 4400 E. Broadway, Suite 501
Tucson, AZ 85711

19 and by Courier Mail to:

20 Nancy Beck
21 Assistant Attorney General
1275 W. Washington
Phoenix, AZ 85007
22 Attorney for the State

23 and

24 Tom Dennis
25 Assistant Attorney General
1275 W. Washington
Phoenix, AZ 85007
26 Solicitor General's Office